

Enforcement Actions

Ratings are used by regulators to distinguish between various levels of supervisory concern, and any bank with a composite rating of “3” or worse is viewed as having heightened supervisory concern. Regulators can initiate two different corrective actions to address those weaknesses; they are formal and informal actions.

Informal Enforcement Actions

Informal actions may be in the form of a Board Resolution or Memorandum of Understanding (MOU). They are typically used for banks assigned a composite rating of “3”, but can be used for any bank requiring corrective action. In these cases, informal actions are viewed as voluntary corrective administrative actions and represent an alternative to formal actions. The goal is to obtain corrective action by identifying the bank's problem areas and establishing responsibility for ensuring that deficiencies are addressed.

A Board Resolution is a commitment developed and adopted by the board (often at the request of the regulators). The resolution directs management to take corrective action and, while the FDIC is not a party to the resolution, it may approve or accept it as a means of initiating corrective action.

An MOU is an informal agreement between the bank and the regulators. The MOU is used when the institution has not deteriorated to the point where it warrants formal administrative action.

Formal Enforcement Actions

Banks with composite ratings of “4” or “5”, by definition, have problems so severe that formal action is warranted. This will likely consist of a Cease and Desist Order or, under the most severe circumstances, initiation of insurance termination proceedings. Additionally, a formal enforcement action may be necessary for banks with a composite rating of “3” when it is believed that bank management is unwilling to take the necessary corrective actions or has failed to comply with the provisions of an existing MOU.

What do you think is the appropriate enforcement action for First State Bank?

[Answer] A Memorandum of Understanding is likely the most appropriate enforcement action for First State Bank, provided management and the board recognize the problems and are willing to adhere to the regulatory recommendations for correction.

Conclusion

Congratulations! You have completed the San Francisco Region's Director's College training. As we mentioned in the Overview, this training module is considered a beginning step on an educational journey that will continue for as long as you serve on the board. We hope you take advantage of further educational opportunities to help you fulfill your fiduciary duties. Remember the FDIC can be a resource to you, we have experts on staff to answer questions and you are invited to attend all management meetings during the examination process.

Also, the FDIC's web site, www.fdic.gov, contains a significant amount of information that can answer many questions that you may have in the future.

Disclosure of Examination Findings

The CAMELS components and the composite rating will be disclosed to management and the board at the exit meetings held at the conclusion of the examination. At this point, the ratings are tentative and subject to a secondary level of review. After the secondary review, a copy of the Report of Examination, including the final CAMELS ratings, will be provided to the bank. The Report, however, remains the property of the FDIC and is not to be shared with anyone outside of the bank per Part 309 of the FDIC Rules and Regulations. The FDIC will allow agents of the bank to review the report without prior FDIC approval, but only if it is necessary for purposes of their employment (accountants, attorneys, or credit review specialists).

Good luck in your directorate position and keep your eyes open for future training modules.